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CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 874**

**Introduced by Assembly Member Takasugi**

February 27, 1997

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An act to amend Sections ~~6591~~, 15814.24, 15820.13, 16731.6, 17070, ~~17072, 17096, and 17403~~ 17403, *and 17404* of, and to add Sections 6547.8, 17070.1, and 17096.1 to, the Government Code, relating to government finance, and making an appropriation therefor.

### LEGISLATIVE COUNSEL'S DIGEST

AB 874, as amended, Takasugi. Government finance.

(1) The Marks-Roos Local Bond Pooling Act of 1985 permits a joint exercise of powers authority to issue bonds to assist local agencies in financing public capital improvements, working capital, liability, or other insurance needs, or projects whenever there are significant public benefits for taking that action.

This bill would provide that no member of the governing body of the authority shall be personally liable on the bonds or subject to personal liability or accountability by reason of

the issuance of bonds. ~~The bill would also make a technical, nonsubstantive change to these provisions.~~

(2) Existing law specifies a procedure for school districts to provide funding to meet energy service contract obligations out of annual state apportionments to those districts. *The procedure requires the Superintendent of Public Instruction to certify the amounts of districts' shares of the obligation, by district, to the Controller.*

This bill would *require the certification of amounts on a county basis and would* change a reference to Section B of the State School Fund in that procedure to refer instead to Section A of the fund.

(3) Existing law authorizes the State Public Works Board to issue notes, including commercial paper notes and other forms of short-term indebtedness, and bond anticipation notes to finance energy conservation in state buildings.

This bill would provide that the proceeds of commercial paper notes are continuously appropriated to pay specified costs associated with commercial paper notes.

(4) Existing law authorizes the use of revenue bonds and negotiable notes or negotiable bond anticipation notes to finance the construction of the Equine Drug Testing Laboratory capital outlay project on the campus of the University of California at Davis, subject to specified conditions.

This bill would additionally specify that nothing in these provisions shall be construed to limit or prohibit the issuance of bonds, notes, or other indebtedness by the Regents of the University of California in order to finance the construction of the Equine Drug Testing Laboratory, provided that no moneys appropriated from the General Fund shall be used to secure or repay any of the indebtedness of the regents, and provided that, should the regents resolve to issue that indebtedness, the Equine Drug Testing Laboratory project shall not be subject to the reviews and approvals required by specified provisions of law.

(5) Existing law requires the Controller to cancel a warrant if it is unpaid for 4 years after it becomes payable.



This bill would reduce that time period to one year and specify that the one-year time period applies to warrants issued after January 1, 1998.

(6) Existing law provides that a duplicate warrant is void if not presented to the Treasurer for payment within the same time limit provided by law for the original warrant.

This bill would instead provide that an agency that ~~issues~~ *submits a claim schedule to the State Controller's Office that results in a warrant that is canceled because it is unpaid may* ~~issue a replacement warrant~~ *submit a claim schedule against the fund to which the original warrant reverted for 2 years following cancellation of the original warrant, and would delete a reference to duplicate warrants, and would instead refer to replacement warrants.*

(7) Existing law authorizes the Treasurer to revoke a payment or credit given to a presenting bank if the warrant or check involved is found to bear a forged, erroneous, or unauthorized endorsement or contain a material defect or alteration if the item is within a 4-year period of legal negotiability. *Upon notification from the Treasurer that the state warrant has been charged back to the presenting bank, the Controller may issue a replacement warrant.*

This bill would instead authorize the Treasurer to revoke a payment or credit under these conditions if no more than 3 years has elapsed since the time that the instrument was presented to the financial institution. *This bill would provide that upon notification from the Treasurer that the warrant has been charged back to the presenting financial institution, the State Controller may process a claim schedule directing payment to the original payee.*

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 6547.8 is added to the  
2 Government Code, to read:  
3 6547.8. No member of the governing body of the  
4 authority shall be personally liable on the bonds or be

1 subject to any personal liability or accountability by  
2 reason of the issuance of bonds pursuant to this chapter.

3 ~~SEC. 2. Section 6591 of the Government Code is~~  
4 ~~amended to read:~~

5 ~~6591. (a) The authority is authorized from time to~~  
6 ~~time to issue bonds to provide funds to achieve its~~  
7 ~~purposes.~~

8 ~~(b) Bonds may be authorized to finance a single public~~  
9 ~~capital improvement, working capital, or insurance~~  
10 ~~program for a single local agency; a series of public capital~~  
11 ~~improvements, working capital, or insurance program for~~  
12 ~~a single local agency; a single public capital improvement,~~  
13 ~~working capital, or insurance program for two or more~~  
14 ~~local agencies; or a series of public capital improvements,~~  
15 ~~working capital, or insurance program for two or more~~  
16 ~~local agencies.~~

17 ~~(c) Bonds issued for the purpose of financing working~~  
18 ~~capital shall be used to make loans to local agencies for~~  
19 ~~any of the purposes for which a local agency may borrow~~  
20 ~~money pursuant to Section 53852. The loans shall be~~  
21 ~~repaid in accordance with the terms of Section 53854.~~

22 ~~(d) Except as otherwise expressly provided by the~~  
23 ~~authority, every issue of its bonds shall be general~~  
24 ~~obligations of the authority, payable from any revenues~~  
25 ~~or moneys of the authority available therefor and not~~  
26 ~~otherwise pledged. These revenues or moneys may~~  
27 ~~include the proceeds of additional bonds, subject only to~~  
28 ~~any agreements with the holders of particular bonds~~  
29 ~~pledging any particular revenues or moneys.~~  
30 ~~Notwithstanding that the bonds may be payable from a~~  
31 ~~special fund, these bonds shall be deemed to be~~  
32 ~~negotiable instruments for all purposes, subject only to~~  
33 ~~the bond registration provisions.~~

34 ~~(e) The bonds may be issued as serial bonds or as term~~  
35 ~~bonds, or the authority may issue bonds of both types. The~~  
36 ~~bonds shall be authorized by resolution of the authority~~  
37 ~~and shall, as provided by the resolution or indenture~~  
38 ~~pursuant to which the bonds are issued, bear the date of~~  
39 ~~issuance; the time of maturity, not exceeding 50 years~~  
40 ~~from their date of issuance; bear the rate of interest,~~

~~either fixed or variable, and, if variable, not in excess of the maximum rate of interest specified therein; be payable as to principal and interest at the time or times provided; be in the denominations provided; be in the form provided; carry the registration privileges provided; be executed in the manner provided; be payable in lawful money of the United States at the place or places provided within or without the state; and be subject to the terms of redemption provided.~~

~~(f) The bonds shall be sold by the authority at the time and in the manner set out in the authority's resolution. The sale may be a public or private sale, and for price or prices, and on terms and conditions as the authority determines proper, after giving due consideration to the recommendations of any local agency to be assisted from the proceeds of the bonds. Pending preparation of the definitive bonds, the authority may issue interim receipts, certificates, or temporary bonds which shall be exchanged for definitive bonds.~~

~~(g) In the case of bonds issued by an authority, on or after January 1, 1995, for the purpose of purchasing bonds of a local agency, all of the bonds of the local agency shall be purchased by the authority from the proceeds of the authority bonds within 90 days of the date of issuance of the authority bonds. Nothing in this subdivision shall be construed to preclude an authority from issuing parity bonds at any time.~~

~~SEC. 3.—~~

~~SEC. 2. Section 15814.24 of the Government Code is amended to read:~~

~~15814.24. (a) The Superintendent of Public Instruction shall apportion state aid equal to the amount necessary for each school district to meet its energy service contract obligation determined pursuant to this chapter. It is the intent of the Legislature that these funds be appropriated annually as a part of the state's general apportionment funds for kindergarten through grade 12 schools.~~

~~(b) If a school district enters into an energy service contract with the Public Works Board pursuant to this~~

1 chapter, the district shall, as a part of that energy service  
2 contract, authorize the Superintendent of Public  
3 Instruction and the Controller to withhold from its annual  
4 apportionment the amount of funds necessary to satisfy  
5 its annual energy service contract obligation to the Public  
6 Works Board. The agreement shall include authorization  
7 to withhold the additional apportionment amount and  
8 the amount determined to be the district's proportional  
9 share of the energy service contract obligation as  
10 determined pursuant to subdivision (a). The  
11 superintendent shall certify the amounts, by ~~district~~  
12 *county*, to the Controller. The Controller shall withhold  
13 the amount so reported for each ~~district county~~ and shall,  
14 acting on behalf of each ~~district county~~, transfer the  
15 appropriate amount from Section A of the State School  
16 Fund to the Public Works Board for the purpose of  
17 payment of the debt service obligation for the bonds sold  
18 to finance the projects. Any payment made from an  
19 apportionment by the Controller pursuant to this section  
20 shall be deemed to be an allocation to a school district for  
21 purposes of subdivision (b) of Section 8 of Article XVI of  
22 the California Constitution for purposes of Chapter 2  
23 (commencing with Section 41200) of Part 24 of the  
24 Education Code.

25 ~~SEC. 4.—~~

26 *SEC. 3.* Section 15820.13 of the Government Code is  
27 amended to read:

28 15820.13. (a) The Legislature authorizes the use of  
29 revenue bonds and negotiable notes or negotiable bond  
30 anticipation notes to finance the construction of the  
31 Equine Drug Testing Laboratory capital outlay project  
32 on the campus of the University of California at Davis.

33 (b) The State Public Works Board may authorize the  
34 issuance of revenue bonds, negotiable notes, or  
35 negotiable bond anticipation notes for an amount not to  
36 exceed six million six hundred thousand dollars  
37 (\$6,600,000), based on the Engineering News Record  
38 Construction Cost Index 5900, to pay the costs of  
39 constructing and equipping the laboratory, plus any  
40 additional amount necessary to cover the costs of

1 financing the constructing and equipping of the  
2 laboratory, including interest during construction, the  
3 costs of issuing the bonds or notes, and the cost of  
4 establishing a reasonably required reserve fund.

5 (c) The revenue bonds, negotiable notes, or  
6 negotiable bond anticipation notes shall not be  
7 authorized for issuance by the State Public Works Board  
8 until the time the Regents of the University of California  
9 certify to the State Public Works Board and the Joint  
10 Legislative Budget Committee that there are sufficient  
11 funds available in the California Veterinary Diagnostic  
12 Laboratory System and California Center for Equine  
13 Health and Performance Account in the Fair and  
14 Exposition Fund to provide necessary rental payments  
15 from which to repay the revenue bonds, negotiable notes,  
16 or negotiable bond anticipation notes to be sold to finance  
17 the project, and until the Regents of the University of  
18 California agree to repay the outstanding debt from  
19 non-General Fund moneys if the amount of funds in the  
20 California Veterinary Diagnostic Laboratory System and  
21 California Center for Equine Health and Performance  
22 Account in the Fair and Exposition Fund are insufficient  
23 to repay any outstanding debt.

24 (d) Authorized total project costs shall not exceed  
25 twelve million dollars (\$12,000,000) based on the  
26 Engineering News Record Construction Cost Index 5900.

27 (e) The difference between the authorized total  
28 project costs identified in subdivision (d) and the amount  
29 to be financed as identified in subdivision (b) is hereby  
30 appropriated from accumulated parimutuel revenues  
31 from the portion of the California Veterinary Diagnostic  
32 Laboratory System and California Center for Equine  
33 Health and Performance Account in the Fair and  
34 Exposition Fund designated for the California Veterinary  
35 Diagnostic Laboratory System pursuant to subdivision  
36 (d) of Section 19578 of the Business and Professions Code  
37 to the board for expenditure for the purposes of this  
38 section.

39 (f) Any augmentation of the approved project costs  
40 shall be subject to Section 13332.11.

1 (g) (1) The revenue bonds, negotiable notes, or  
2 negotiable bond anticipation notes to be sold to finance  
3 this project, and the related interest and expenses, shall  
4 be repaid by rental payments for the project made to the  
5 board by the Regents of the University of California,  
6 which shall be solely funded from amounts on deposit in  
7 the portion of the California Veterinary Diagnostic  
8 Laboratory System and California Center for Equine  
9 Health and Performance Account in the Fair and  
10 Exposition Fund established pursuant to subdivision (d)  
11 of Section 19578 of the Business and Professions Code that  
12 are designated for the California Veterinary Diagnostic  
13 Laboratory System.

14 (2) The State of California pledges to and agrees with  
15 the holders of any revenue bonds, negotiable notes, or  
16 bond anticipation notes sold to finance this project that  
17 the state will not alter or change the structure of funding  
18 of, and deposits to, the California Veterinary Diagnostic  
19 Laboratory System and California Center for Equine  
20 Health and Performance Account or the pledge of funds  
21 for debt service, security, including any coverage factors  
22 and expenses entered into by the board pursuant to this  
23 part until the revenue bonds, negotiable notes, or  
24 negotiable bond anticipation notes sold to finance this  
25 project are fully paid or discharged or have been fully  
26 provided for in accordance with their terms. However,  
27 nothing precludes any alterations or changes if adequate  
28 provision is made by law for the protection from  
29 impairment of the contract represented by the bonds or  
30 other indebtedness, or obligations, and the right to so  
31 alter or change is hereby reserved. The board and the  
32 Regents of the University of California may include this  
33 pledge and undertaking of the state in their bonds,  
34 indentures, leases, or other documents relating to the  
35 obligations authorized in this section.

36 (3) Due to the exclusive source of repayment  
37 provided for in this section, all contrary provisions of this  
38 part, including, but not limited to, Sections 15848 and  
39 15849.2, which provide for other sources and methods of  
40 payment, do not apply. Notwithstanding any other



1 provision of law, if the amount of funds in the California  
2 Veterinary Diagnostic Laboratory System and California  
3 Center for Equine Health and Performance Account in  
4 the Fair and Exposition Fund is insufficient to repay the  
5 revenue bonds, negotiable notes, or negotiable bond  
6 anticipation notes sold to finance this project and related  
7 interest and expenses, moneys appropriated from the  
8 General Fund shall not be used as an alternative source  
9 of repayment.

10 (h) Revenue bonds, negotiable notes, or negotiable  
11 bond anticipation notes issued under this section shall not  
12 constitute a debt or liability of the state, and do not  
13 constitute a pledge of the full faith and credit of the state.  
14 The issuance of bonds under this section shall not directly  
15 or indirectly or contingently obligate the state to levy or  
16 to pledge any form of taxation whatever or to make any  
17 appropriation for their payment.

18 (i) Nothing in this section shall be construed to limit or  
19 prohibit the issuance of bonds, notes, or other  
20 indebtedness by the Regents of the University of  
21 California in order to finance the construction of the  
22 Equine Drug Testing Laboratory, provided that no  
23 moneys appropriated from the General Fund shall be  
24 used to secure or repay any of the indebtedness of the  
25 regents, and provided that, should the regents resolve to  
26 issue that indebtedness, the Equine Drug Testing  
27 Laboratory project shall not be subject to the reviews and  
28 approvals required by Section 13332.11.

29 ~~SEC. 4.5.~~

30 *SEC. 4.* Section 16731.6 of the Government Code is  
31 amended to read:

32 16731.6. (a) Notwithstanding any other provision of  
33 this chapter, and as an alternative to the procedures set  
34 forth in Section 16731, the committee may provide for the  
35 issuance of all or part of the bonds authorized to be issued  
36 as commercial paper notes. The committee shall adopt a  
37 resolution finding that issuance of the bonds in the form  
38 of commercial paper notes is necessary and desirable,  
39 directing the Treasurer to arrange for preparation of the  
40 requisite number of suitable notes, and specifying other

1 provisions relating to the commercial paper notes  
2 including the following:

3 (1) For each program of commercial paper notes  
4 authorized, the final date of maturity and the total  
5 aggregate principal amount of the commercial paper  
6 notes authorized to be outstanding at any one time up to  
7 the maturity date. The resolution may provide that the  
8 commercial paper notes may be issued and renewed from  
9 time to time until the final maturity date, and that the  
10 amount issued from time to time may be set by the  
11 Treasurer up to the maximum amount authorized to be  
12 outstanding at any one time. The resolution shall include  
13 methods of setting the dates, numbers, and  
14 denominations of the commercial paper notes.  
15 Determination of the final maturity date and total  
16 amount by the committee shall be made upon  
17 recommendation of the Treasurer to meet the needs of  
18 the state for funds, to provide the maximum benefit to  
19 potential purchasers, and to respond to the expected  
20 demand for the commercial paper notes.  
21 Notwithstanding any other provision of this chapter,  
22 whenever the committee determines to issue  
23 commercial paper notes, the committee need not comply  
24 with the requirements of Section 16732.

25 (2) The method of setting the interest rates and  
26 interest payment dates applicable to the commercial  
27 paper notes. Commercial paper notes may bear a state  
28 rate of interest payable only at maturity, which rate or  
29 rates may be determined at the time of sale of each unit  
30 of commercial paper notes. The rate of interest borne by  
31 the commercial paper notes shall not exceed 11 percent  
32 per annum. Notwithstanding any other provision of this  
33 chapter, whenever the committee determines to issue  
34 commercial paper notes, the committee need not comply  
35 with the requirements of Section 16733.

36 (3) Any provisions for the redemption of the  
37 commercial paper notes prior to stated maturity.

38 (4) The technical form and language of the  
39 commercial paper notes.

(5) All other terms and conditions of the commercial paper notes and of their execution, issuance, and sale, deemed necessary and appropriate by the committee.

(b) Notwithstanding any other provision of this chapter, when the committee determines to issue commercial paper notes, all of the following shall apply:

(1) The commercial paper notes may be sold at negotiated sale at a price below the par value in a manner consistent with paragraph (2) of subdivision (a).

(2) For purposes of determining the principal amount of bonds of any voted authorization outstanding, in the case of any commercial paper notes, the principal amount deemed outstanding at any time during the term of a program of commercial paper notes shall be the maximum amount authorized in the resolution.

(3) During the term of any program of commercial paper notes, the renewal and reissuance from time to time of the commercial paper notes in an amount up to the maximum amount authorized by the resolution shall be deemed to be a refunding of the previously maturing amount, permitted by and consistent with Article 6 (commencing with Section 16780).

(4) Consistent with the intent for the General Fund to realize a savings in debt service costs when commercial paper notes are issued in place of bonds without shifting or adding financing and debt service costs to the bond funds, the state administrative costs of commercial paper and interest payable and other costs associated with commercial paper notes shall be paid for as follows:

(A) The proceeds of commercial paper notes are, notwithstanding Section 13340, continuously appropriated to pay the state administrative costs of commercial paper including, but not limited to, costs of the Treasurer's office and the Controller's office.

(B) The interest payable on maturing commercial paper notes and other costs associated with commercial paper notes not specified in paragraph (A), including, but not limited to, remarketing fees, issuing and paying agent fees, the letter or line of credit provider fees, the rating agency fees, and bond counsel fees, shall be paid

1 from the General Fund which, notwithstanding Section  
2 13340, is continuously appropriated to pay the interests  
3 and costs.

4 SEC. 5. Section 17070 of the Government Code is  
5 amended to read:

6 17070. Whenever any warrant issued by the  
7 Controller is unpaid for one year after it becomes  
8 payable, sufficient unapplied moneys having been  
9 available for the payment of the warrant and for the  
10 payment of all senior obligations, the Controller shall  
11 cancel it.

12 SEC. 6. Section 17070.1 is added to the Government  
13 Code, to read:

14 17070.1. Any warrant issued prior to January 1, 1998,  
15 shall be governed by the law effective on the date of issue  
16 of the warrant. Any warrant issued on or after January 1,  
17 1998, shall be governed by the one-year period of  
18 negotiability specified in Section 17070.

19 ~~SEC. 7. Section 17072 of the Government Code is~~  
20 ~~amended to read:~~

21 ~~17072. The face amount of each warrant canceled~~  
22 ~~under this article shall revert and be credited by the~~  
23 ~~Controller to the fund against which the warrant was~~  
24 ~~drawn.~~

25 ~~SEC. 8. Section 17096 of the Government Code is~~  
26 ~~amended to read:~~

27 ~~17096. A replacement warrant is void if not presented~~  
28 ~~to the Treasurer for payment within one year following~~  
29 ~~its date of issue regardless of the date of issue of the~~  
30 ~~original warrant.~~

31 ~~SEC. 9.—~~

32 SEC. 7. Section 17096.1 is added to the Government  
33 Code, to read:

34 17096.1. An agency that *issues submits a claim*  
35 *schedule to the State Controller's Office that results in a*  
36 *warrant that is canceled under Section 17070 may issue a*  
37 *replacement warrant from submit a claim schedule*  
38 *against the fund to which the original warrant reverted*  
39 *pursuant to Section 17072 for two years following the date*  
40 *of cancellation of the original warrant.*

~~SEC. 10.~~

SEC. 8. Section 17403 of the Government Code is amended to read:

17403. In any case in which the Treasurer redeems or gives credit for a warrant or check, he or she may revoke the payment or credit given by returning the warrant or check to the presenting financial institution if, upon further examination, the item is found to bear a forged, erroneous, or unauthorized endorsement or to contain any material defect or alteration. Upon this revocation, the Treasurer may deduct the amount of the item from any amount that is due or may become due to the presenting financial institution or to obtain a refund from the financial institution. This right is subject only to the requirements that the item in question be returned at the time of offset or collection and that no more than three years has elapsed since the time that the instrument was presented to the financial institution.

SEC. 9. Section 17404 of the Government Code is amended to read:

17404. Upon notification from the State Treasurer that a forged or erroneously endorsed state warrant has been charged back to the presenting—~~bank~~ financial institution, the State Controller may ~~issue a replacement~~ ~~warrant~~ process a claim schedule directing payment to the original payee.